

Office of the Independent Police Auditor

Monthly Report

November 2011



Office of the
**INDEPENDENT
POLICE AUDITOR**

BAY AREA RAPID TRANSIT DISTRICT

December 12, 2011

This report is filed pursuant to the BART Citizen Oversight Model, Chapter 1-05 (A), which requires the Office of the Independent Police Auditor (OIPA) to submit reports to the Citizen Review Board. This report provides information for the period November 1, 2011 through November 30, 2011. It is the intention of the OIPA to make this report and all subsequent reports in this series available at www.bart.gov/policeauditor.^{1,2}

Quantitative Report

	Number of Cases Filed ³	Number of Open Cases ⁴	Number of OIPA Investigations Concluded	Number of Cases Appealed to OIPA ⁵	Number of Cases Appealed by CRB ⁶
June 27, 2011 - October 31, 2011	32	53	0	0	0
November 2011	11	60	0	0	0

Types of Cases Filed

Citizen Complaints	8
Administrative Investigations	1
Comments of Non-Complaint	2
TOTAL	11

Citizen Complaints Received per Department

OIPA	3
BART Police Department	5
TOTAL	8

Complaints/Investigations Initiated During Reporting Period**Actions Taken/# of Days Elapsed⁷**

During the month of November 2011, 3 Citizen Complaints were received by the OIPA:

Complaint #	Nature of Complaint	Action Taken	# of Days Elapsed Since Complaint Filed
1	Racial Profiling	BART Police Department was notified and an investigation was initiated.	39
2	Courtesy; Procedure	Complaint was referred to the BART Police Department.	24
3	Courtesy; Conduct Unbecoming an Officer	Complaint was referred to the BART Police Department.	20

During the month of November 2011, 5 Citizen Complaints were received by the BART Police Department:

Complaint #	Nature of Complaint	Action Taken	# of Days Elapsed Since Complaint Filed
1	Conduct Unbecoming an Officer; Courtesy; Procedure	An investigation was initiated.	28
2	Arrest or Detention	An investigation was initiated.	28
3	Conduct Unbecoming an Officer; Courtesy	An investigation was initiated.	21
4	Force; Courtesy; Procedure	An investigation was initiated.	21
5	Force	An investigation was initiated.	14

During the month of November 2011, 1 Administrative Investigation was generated by the BART Police Department:

Complaint #	Nature of Complaint	Action Taken	# of Days Elapsed Since Complaint Filed
1	Criminal (Misdemeanor); Conduct Unbecoming an Officer	An investigation was initiated.	20

During the month of November 2011, 2 Comments of Non-Complaint were received by the BART Police Department:

Comment #	Nature of Comment	Action Taken	# of Days Elapsed Since Comment Filed
1	Procedure	An investigation was initiated.	31
2	Biased-based Policing	An investigation was initiated.	13

Complaints/Investigations Concluded During Reporting Period

Dispositions/Recommendations for Corrective Action/# of Days Elapsed

During the month of November 2011, 1 Administrative Investigation was concluded by the BART Police Department:

Complaint # (IA Case #)	Nature of Complaint	Disposition	Recommendation for Corrective Action	# of Days Elapsed Since Complaint Filed
1 (IA #2010-070)	Arrest or Detention; Search or Seizure	Supervisory Referral ⁸	N/A	424 ⁹

During the month of November 2011, 3 Comments of Non-Complaint were addressed by the BART Police Department:

Comment # (IA Case #)	Nature of Comment	Disposition	# of Days Elapsed Since Comment Filed
1 (IA #2011-050)	Courtesy; Procedure	Supervisory Referral	97
2 (IA #2011-059)	Courtesy	Supervisory Referral	80
3 (IA #2011-067)	Courtesy	Supervisory Referral	45

¹ In some instances, this report requires combining data from the OIPA with data from the BART Police Department's Internal Affairs unit. As updates are made to the respective data of each entity, the possibility exists that future revisions to the combined data being reported here will be required.

² In addition to reporting on complaints received by the BART Police Department, the Citizen Oversight Model requires reporting on all complaints received by the “Citizen Board, Office of the District Secretary, and other District departments.” As complaints received by the Citizen Board are customarily directed to the OIPA for further action, such complaints are included in the Quantitative Report above; the OIPA is not aware of additional complaints about the BART Police Department received by the Office of the District Secretary or other District departments.

³ This number includes all Citizen Complaints filed against members of the BART Police Department, as well as Administrative Investigations generated internally by BART Police Department members (as opposed to being filed by a citizen). This number also includes what the BART Police Department manual defines as “Comments of Non-Complaint;” these are comments “on the actions of a department employee, where the reporting party expressly states that they do not want to make a complaint.” (BART Police Department Policy Manual, Policy 1020.1.1(e)).

⁴ This number indicates all investigations that are open as of the end of the reporting period. It includes Citizen Complaints (regardless of whether the investigation is being conducted by OIPA, the BART Police Department, or both), Comments of Non-Complaint, and Administrative Investigations.

⁵ This number refers to appeals filed with OIPA by complainants who have been issued the findings of the BART Police Department’s internal investigation into their complaint regarding on-duty incidents. The OIPA has a responsibility to review such appeals pursuant to the BART Citizen Oversight Model, Chapter 1-04 (E).

⁶ This number refers to all appeals initiated by the Citizen Review Board after receiving and reviewing the findings issued by the OIPA in a given case. The routes of all such appeals are described in detail in the BART Citizen Oversight Model, Chapter 1-04 (B) (iv-v).

⁷ In all cases where it appears in this report, the number of days elapsed refers to the number of days between the date of the complaint and the date of the report (as noted on the front page).

⁸ In defining a “Supervisory Referral,” the BART Police Department Manual indicates that an assigned supervisor will address the issue informally with the involved employee and document the content of the conversation in a memorandum to the Internal Affairs Section. (BART Police Department Policy Manual, Policy 1020.1.1(f)).

⁹ It was noted by the assigned investigator in this case that evidence collected within approximately 34 days after the allegations were received definitively showed that the allegations were based on faulty information. With concurrence by the investigator’s chain of command, the final completion of the investigative report was assigned a lower priority than other cases with approaching deadlines.